

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

SHAWN LUDE SHUMATE,

Civil No. 06-23-ST

Petitioner,

v.

ORDER

SHARON BLACKETTER,

Respondent.

MARSH, Judge.

Magistrate Judge Janice M. Stewart filed her Findings and Recommendation on January 6, 2011. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate's report. See 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore

Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981),  
cert. denied, 455 U.S. 920 (1982).

Petitioner has filed timely objections. I have, therefore, given the file of this case a *de novo* review. I find no error. Accordingly, I ADOPT Judge Stewart's Findings and Recommendation (#79). Petitioner's habeas corpus petition (#1) is DENIED, and this proceeding is DISMISSED, with prejudice. IT IS FURTHER ORDERED that petitioner's request for an evidentiary hearing is DENIED due to petitioner's failure to establish that an evidentiary hearing would produce evidence more reliable than the documentary evidence presented to the post-conviction court.

This court declines to issue a certificate of appealability because petitioner has not made a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 1 day of March, 2011

/s/ Malcolm F. Marsh  
Malcolm F. Marsh  
United States District Judge